

Jul 03, 2024

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

HANFORD GUARDS UNION, LOCAL

21,

Plaintiff,

v.

HANFORD MISSION INTEGRATION

SOLUTIONS, LLC,

Defendant.

No. 4:24-CV-05070-SAB

**ORDER DENYING
TEMPORARY RESTRAINING
ORDER**

Before the Court are Plaintiff's Motion for Temporary Restraining Order, ECF No. 3, and associated Motion to Expedite, ECF No. 4. Plaintiff is represented by SaNni M-K Lemonidis and Aaron M. Streepy. Defendant has not yet appeared. This motion was considered without oral argument.

This matter concerns a labor dispute between Plaintiff Hanford Guards Union, Local 21 (the "Union") and defendant Hanford Mission Integration Solutions, LCC ("HMIS"). Upon review, and being fully informed, the Court denies the Union's motion for a temporary restraining order.

Facts

The Union seeks an emergency order compelling HMIS to participate in mandatory arbitration pursuant to the parties' Collective Bargaining Agreement ("CBA") and Section 301 of the Labor Management Relations Act ("LMRA"), 29

ORDER DENYING TEMPORARY RESTRAINING ORDER # 1

1 U.S.C. § 185. The current CBA expires on November 1, 2024. The parties disagree
2 as to whether overtime shifts of four hours may be offered by HMIS, when no such
3 shifts are enumerated in the current CBA.

4 Article 20 of the CBA states that “[t]he interpretation or application of a
5 provision of this [CBA]” is an arbitrable grievance. ECF No. 2-1 at 60 (Art.
6 20(1)(A)). The parties have already obtained a Federal Mediation and Conciliation
7 Service ‘strike list’ and chose an Arbitrator.

8 The Arbitrator set a single day hearing for June 19, 2024 to discuss this issue
9 and on the last day to postpone, HMIS allegedly notified the Arbitrator it was
10 understaffed and needed a new date. The Union views this and other HMIS actions
11 as dilatory. The Union agreed to the continuance, but the parties could not agree on
12 a new date to arbitrate the pending overtime shift disagreement. It appears an
13 arbitration date has not been set as of the filing of these pending motions.

14 **Legal Standard**

15 Fed. R. Civ. P. 65(b) provides the legal standard for temporary restraining
16 orders (TROs). The legal standard is substantively identical to the preliminary
17 junction standard. *See Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d
18 832, 839 n.7 (9th Cir. 2001) (noting that the analysis applied to temporary
19 restraining orders and preliminary injunctions is “substantially identical”). The
20 standard for obtaining a TRO in the Ninth Circuit is the same as for obtaining a
21 preliminary injunction. *Fang v. Merrill Lynch, Pierce, Fenner, & Smith Inc.*, 694
22 F. App’x 561 n.1 (9th Cir. 2017). A preliminary injunction and TRO is “an
23 extraordinary remedy that may only be awarded upon a clear showing that the
24 plaintiff is entitled to such relief.” *Winter v. Natural Res. Def. Council, Inc.*, 129 S.
25 Ct. 365, 376 (2008). A TRO is distinguished by its “underlying purpose of
26 preserving the status quo and preventing irreparable harm just so long as is
27 necessary to hold a hearing, and no longer.” *Granny Goose Foods, Inc. v.*
28 *Brotherhood of Teamsters & Auto Truck Drivers Local No. 70*, 415 U.S. 423, 439

1 (1974). TROs are limited to 14 days, unless extended for good cause and provided
2 there is an expedited hearing on a preliminary injunction. Fed. R. Civ P. 65(b).

3 A court may grant only a TRO upon a petitioner's showing of (1) likelihood
4 of success on the merits, (2) likelihood of irreparable harm in the absence of
5 preliminary relief, (3) the balance of equities weighs in petitioner's favor, and (4)
6 an injunction is in the public interest. Winter, 129 S. Ct. at 374. "The court may
7 issue a temporary restraining order without written or oral notice to the adverse
8 party or its attorney only if: (A) specific facts in an affidavit or a verified complaint
9 clearly show that immediate and irreparable injury, loss, or damage will result to
10 the movant before the adverse party can be heard in opposition; and (B) the
11 movant's attorney certifies in writing any efforts made to give notice and the
12 reasons why it should not be required." Fed. R. Civ. P. 65(b)(1)(A)–(B).

13 Section 301 of the LMRA provides: "Suits for violation of contracts between
14 an employer and a labor organization representing employees in an industry
15 affecting commerce ... may be brought in any district court of the United States
16 having jurisdiction of the parties. 29 U.S.C. § 185(a).

17 Discussion

18 The temporary restraining order legal standard cannot be properly analyzed
19 without a response from HMIS. Therefore, the motions are denied with leave to
20 refile as a Motion for a Preliminary Injunction once Defendant is served, appears,
21 and has an opportunity to respond.

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Accordingly, **IT IS HEREBY ORDERED:**

1. Plaintiff's Motion for Temporary Restraining Order, ECF No. 3, and associated Motion to Expedite, ECF No. 4, are **DENIED with leave to refile as a Motion for a Preliminary Injunction.**

2. A motion for a preliminary injunction will be considered on the merits once Defendant is served, appears, and has an opportunity to respond.

IT IS SO ORDERED. The Clerk of Court is directed to enter this Order and forward copies to counsel.

DATED this 3rd day of July 2024.



Stanley A. Bastian

Stanley A. Bastian
Chief United States District Judge